

REMARKS

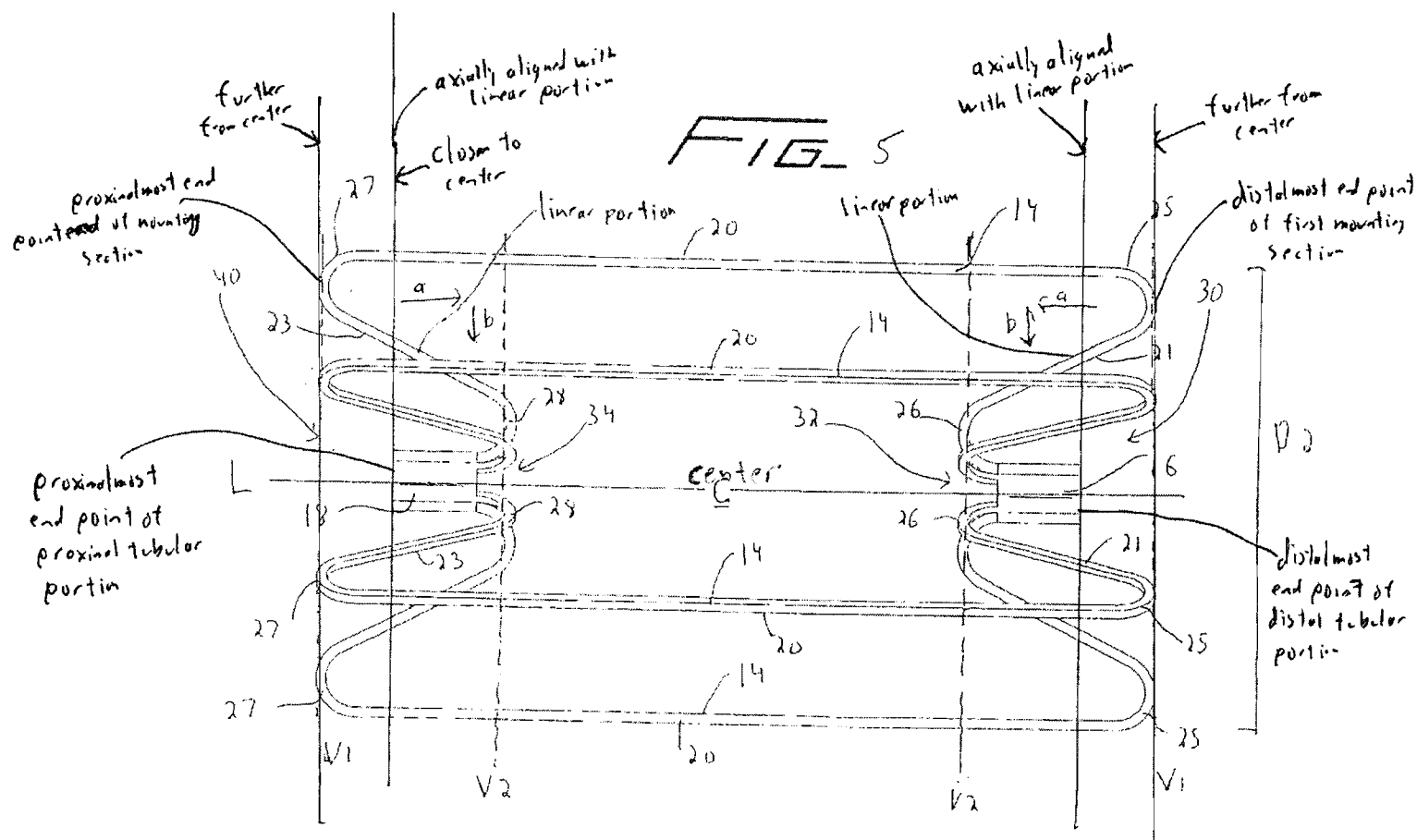
In the Office Action, claims 2-7, 9, 11, 13, 13, 14, 16, 18, 21 and 22 were rejected under 35 U.S.C. 103(a) as being unpatentable over Bosma et al. (U.S. Patent No. 6,443,972) in view of Van der Burg, et al (U.S. Patent No. 6,994,092). Claims 8, 15 and 17 were rejected under 35 U.S.C. 103(a) as being unpatentable over Bosma in view of Van der Burg, et al and in further view of Gilson, et al (U.S. Publication 2002/0058911).

The Bosma patent, as the Examiner concedes, does not disclose the specific structure and location of the Applicants' filtering section with regard to the mounting section. As pointed out to the Examiner in previous responses, the axially inward sections of the claimed invention direct particles to the center through both ends, regardless of the orientation/direction of implantation. Bosma's structure, where the filter is axially outward, would direct at one end particles away from the center. The Examiner combines Bosma with Van der Burg. This combination is untenable. The Examiner is contending that it would have been obvious to one of ordinary skill to modify Bosma to replace it with structure from an occluding device which not only performs a different function but has structure which would function opposite to its structure. The Examiner, other than by the use of impermissible hindsight, could not combine a patent with structure to direct particles outward with structure to direct particles in the opposite direction nor combine a patent designed to have blood flow therethrough with a patent designed to block flow. This is counter to Bosma's teachings.

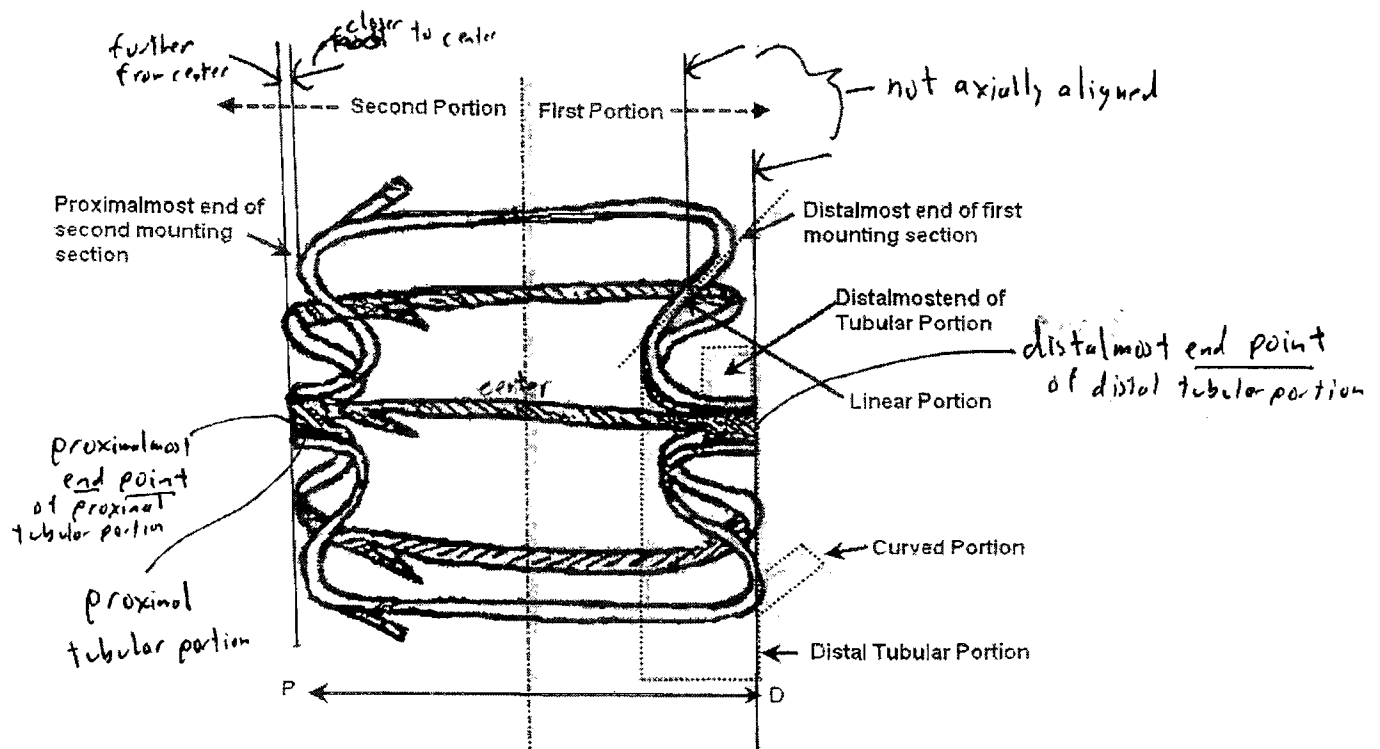
Further, assuming solely for the sake of argument the patents were combined as the Examiner suggests, the recitation of the claims would still not be met. The Examiner contends on page 3 of the Office Action that the structure of Van der Burg meets all the claimed limitations. This is simply not correct. The Examiner in labeling the drawing of Van der Burg has omitted certain elements of the claims. To further clarify the distinctions, the claims have been amended to clarify that each of the struts contain the recited features.

For clarification, set forth below is Figure 5 from the present application identified with the pertinent language of the claims. With reference to the drawing, the Examiner should note the following: 1) each of the struts has a linear portion; 2) the proximalmost tubular portion has a proximalmost end point, and this end point is axially aligned with the linear portion; 3) the proximalmost end point of the proximal tubular portion is closer to the center than the proximalmost end point of each of the struts of the mounting section; and 4) the distalmost end point of the distal

tubular portion is closer to the center than the distalmost end point of each of the struts of the mounting section.



For clarification, set forth below is the Figure of Van der Burg from page 3 of the Examiner's Office Action identified with the pertinent language of the claims of the present application. With reference to the drawing below, the Examiner should note: 1) each of the struts does not have a linear portion as some just have curved regions; 2) the proximalmost tubular portion has a proximalmost end point that is not axially aligned with the linear portion as the struts that do have a linear portion are shown out of alignment with the end point; 3) the proximalmost end point of the proximal tubular portion is further, not closer from the center than the proximalmost end point of each of the struts of the mounting section; and 4) the distalmost end point of the distal tubular portion is further, not closer to the center than the distalmost end point of each of the struts of the mounting section.



Claim 18

Independent claim 18 recites a method of implanting a vessel filter in a patient's body to direct particles to the center of the filter while enabling blood flow through the filter. The method comprises inter alia the steps of providing a vessel filter having a plurality of struts each extending substantially parallel to the longitudinal axis to engage a vessel wall and curving inwardly and including a linear portion extending radially and axially inwardly to the respective filtering section. As explained above, Van der Burg lacks struts each of which has a linear portion. The method further comprises the step of deploying the vessel filter from the delivery member so the vessel filter, without application of an external force, moves to a placement configuration having a diameter larger than the first diameter and the proximalmost end point of the first proximal tubular portion and the distalmost end point of the second distal tubular portion are axially aligned with respective linear portions and are closer to the center of the longitudinal axis of the filter than each of the respective proximalmost and distalmost end points of each of the struts of the mounting section to direct particles along a linear path at an angle to the longitudinal axis toward the center of the filter in the path of greater blood flow through the filter. As explained and illustrated above, Van der Burg lacks these features.

Consequently, even assuming for the sake of argument that the filter of Bosma was combined with the occluding device of Van der Burg, the recitations of claim 18 would still not be met. Therefore, withdrawal of the rejection is respectfully requested.

Claim 21

Independent claim 21 recites a vessel filter comprising inter alia in a vessel placement position, a distalmost end point of the distal tubular portion is radially inward and proximal of the distalmost end points of each of the struts of the first mounting section and a proximalmost end point of the proximal tubular portion is radially inward and distal of the proximalmost end points of each of the struts of the second mounting section. Further, claim 21 recites that the portion joining the first mounting section and first filter section and joining the second mounting section and second filter section of each of the struts each includes a linear portion extending radially and axially inwardly and extends from a first curved portion at one end to a second curved portion at an opposing end. Claim 21 further recites that the distalmost end point of the distal tubular portion are axially aligned with a region of each of the linear portions of the respective second filter section and first filter section.

As explained and illustrated above, Van der Burg lacks these features.

Consequently, even assuming for the sake of argument that the filter of Bosma was combined with the occluding device of Van der Burg, the recitations of claim 21 would still not be met. Therefore, withdrawal of the rejection is respectfully requested.

Claim 22

Claim 22 recites a vessel filter comprising inter alia radially inwardly extending struts each having a linear portion extending from a first curved portion at a first end and transitioning to a second curved portion at a second end. The claim further recites that each of the struts of the first filtering section terminates in a distalmost end point and each of the struts of the second filtering section terminates in a proximalmost end point, wherein in the second configuration each of the proximalmost end points of the struts in the mounting section is proximal of a proximalmost end point of the first tubular portion and the distalmost end points of each of the struts in the mounting section is distal of a distalmost end point of the second tubular portion to direct particles along the linear portion of struts to the center of the filter and toward the central longitudinal axis in the path of greater blood flow through the filter.

As explained and illustrated above, Van der Burg lacks these features.

Consequently, even assuming for the sake of argument the filter of Bosma was combined with the occluding device of Van der Burg, the recitations of claim 22 would still not be met. Therefore, withdrawal of the rejection is respectfully requested.

Dependent Claims

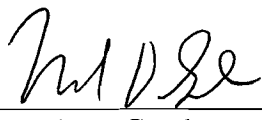
Claims 2-9, 11 and 13-17 depend from independent claims 18, 21 or 22 and are therefore believed patentable for at least the same reasons as claims 18, 21 and 22 are believed patentable. Note also that Gilson, applied to claims 8, 15 and 17 does not cure the deficiencies of Bosma and Van der Burg.

Applicants respectfully submit that this application is now in condition for allowance. Prompt and favorable reconsideration of the present application is respectfully requested. The Examiner is invited to contact the undersigned should the Examiner believe it would expedite prosecution.

The Commissioner is hereby authorized to charge any additional fees which may be required for this Amendment, or credit any overpayment to Deposit Account No. **501567**. In the event any extensions of time are required with this Amendment, please treat this paper as a petition for such extension. The Commissioner is hereby authorized charge the required extension fee pursuant to 37 C.F.R. §1.17, to Deposit Account No. **501567**.

Respectfully submitted,

Dated: 3/31/09

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